

CAUSE NO. 703-335

PRISON SLAVES OF BASTROP COUNTY JAIL	§	IN THE DISTRICT COURT
	§	
	§	
v.	§	335th JUDICIAL DISTRICT
	§	
	§	
BASTROP COUNTY and BASTROP COUNTY JAIL	§	BASTROP COUNTY, TEXAS

DEFENDANTS' ORIGINAL ANSWER

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now, BASTROP COUNTY and BASTROP COUNTY JAIL, "Defendants" hereinafter and collectively "Defendant", and file this Original Answer, and would show the Court as follows:

I.

Pursuant to Civil Procedure Rule 92, Defendant denies each and every, all and singular, the material allegations contained in Plaintiff's Original Petition, and demands strict proof thereof as required by the constitution and laws of the State of Texas.

II.

Defendant pleads Chapter 33 of the TEXAS CIVIL PRACTICE AND REMEDIES CODE, and asks the Court and Jury to consider the relative damages and conduct of the parties, all tortfeasors including the Plaintiff, any settling persons, and any designated responsible third parties and accord the Defendant full benefit of said law.

III.

The Plaintiff's "right" to recover medical expenses is limited by the provisions of TEX. CIV. PRAC. & REM. CODE 41.0105. Thus recovery of medical or health care expenses incurred by Plaintiff is limited to the amount actually paid or incurred by or on behalf of the Plaintiff.

IV.

Plaintiff is required to prove loss of earnings and/or loss of earning capacity in the form which represents net loss after reduction for income tax payments or unpaid tax liability on said loss of earnings claim pursuant to any federal income tax law. TEX. CIV. PRAC. & REM. CODE §18.091. Additionally, Defendant requests the Court to instruct the jury as to whether any recovery for compensatory damages sought by the Plaintiff, if any, is subject to federal and state income taxes.

V.

The Plaintiff has failed to mitigate damages. Defendant would show that it is not liable for any condition resulting from the failure, if any, of Plaintiff, to act as a person of ordinary prudence would have acted under the same or similar circumstances in caring for and treating Plaintiff's injuries, if any, that resulted from the occurrence in question. If Plaintiff failed to submit the healthcare expenses she claims are reasonably related to the subject occurrence to a healthcare insurance company, she failed to mitigate damages by enjoying contractual insurance company reductions available. If Plaintiff does not have healthcare insurance, she failed to mitigate damages by failing to enroll for healthcare insurance under the Patient Protection and Affordable Care Act (PPACA or "Obamacare"), as required by that act.

VI.

Further, without waiving the foregoing, Plaintiff has failed to comply with the appropriate statute of limitations. Plaintiff has failed to use due diligence in prosecuting this suit.

VII.

To the extent that Plaintiff seeks recovery of exemplary or punitive damages, Defendant pleads Chapter 41, TEX. CIV. PRAC. & REM. CODE, including Section 41.008 and insists upon such

damages being limited and capped as provided by statute. Defendant further pleads for the protection of any and all other statutes relating to damage caps and limits.

VIII.

In the event Plaintiff seeks recovery of exemplary or punitive damages, Defendant hereby moves for a bifurcated trial pursuant to Section 41.009, TEX. CIV. PRAC. & REM. CODE.

IX.

Pursuant to Rule 193.7 of the Texas Rules of Civil Procedure, Defendant gives notice of the intent to use all documents produced in discovery against any party producing said documents and any deposition transcripts and videos in any pretrial proceeding or at the time of trial. Under Rule 193.7, unless the producing party objects to the authenticity of all or part of any of the documents, and states the specific basis for each objection, the documents shall be deemed to be authenticated.

WHEREFORE, PREMISES CONSIDERED, Defendant prays that, upon final hearing, judgment be entered that Plaintiff takes nothing and Defendant be awarded costs of Court. Defendant requests any and all such further relief to which it may be shown justly entitled to receive.

Respectfully submitted,

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ATTORNEY FOR DEFENDANTS
BASTROP COUNTY and
BASTROP COUNTY JAIL

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Defendants' Original Answer has been served in accordance with the Texas Rules of Civil Procedure upon the counsel of record on the 22nd day of February, 2018, addressed as follows:

Prison Slaves of Bastrop County Jail
c/o Gordon Kemppainen
331 Thousand Oaks Dr.
Cedar Creek, Texas 78612

Via CMRRR No. 70171070000025297572


ANGELA M. PEÑA